

C. Whenever the Board finds that an emergency exists requiring immediate action to protect the public health or welfare, it may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Notwithstanding the provisions of subsection B of this section, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately but on application to the Board shall be afforded a hearing within ten (10) days. On the basis of such hearing, the Board shall continue such order in effect, revoke it or modify it; provided, that any person aggrieved by such order continued after the hearing provided in this subsection may appeal to the district court of the area affected within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on said docket, except criminal.

D. Except as otherwise expressly provided, any notice, order or other instrument issued by or under authority of the Board may be served on any person affected thereby personally or by publication. Proof of such service shall be made as in case of service of a summons or by publication in a civil action, such proof to be filed in the office of the Board; or such service may be made by mailing a copy of the notice, order or other instrument by registered mail directed to the person affected at his last-known post office address as shown by the files or records of the Board, and proof thereof may be made by the affidavit of the person who did the mailing, filed in the office of the Board.

Every certificate or affidavit of service made and filed as herein provided shall be prima facie evidence of the facts therein stated, and a certified copy thereof shall have like force and effect.

Laws 1972, c. 242, § 7.

¹ Section 926.8 of this title.

² Section 926.11 of this title.

Waters and Water Courses §64 et seq.

§ 926.8. Conduct of hearings

The hearings herein provided may be conducted by the Board itself at a regular or special meeting of the Board, or the Board may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Board at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided in the Administrative Procedures Act.¹

Laws 1972, c. 242, § 8.

¹ Section 301 et seq. of title 75.

Waters and Water Courses §64 et seq.

§ 926.9. Inspections

The Board or its duly authorized representative shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating

to pollution or the possible pollution of any waters of the state.

The Board may require the maintenance of records relating to the operation of disposal systems. Copies of such records must be submitted to the Board on request. Any authorized representative of the Board may examine any records or memoranda pertaining to the operation of disposal systems.

Laws 1972, c. 242, § 9.

Waters and Water Courses §64 et seq.

§ 926.10. Penalties—Injunctions

A. Any person who shall violate any of the provisions of, or who fails to perform any duty imposed by, Sections 926.1 through 926.13 of this title or who violates any order or determination of the Board promulgated pursuant to this act shall, upon conviction, be guilty of a misdemeanor and in addition thereto may be enjoined from continuing such violation. In addition to other penalties or liabilities as may be imposed by law, violations may be punishable in civil proceedings by assessment of a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) for each violation or, in criminal proceedings, by a fine of not less than Two Hundred Dollars (\$200.00) for each violation and not more than Ten Thousand Dollars (\$10,000.00) for each violation or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment. Each day upon which such violation occurs shall constitute a separate violation.

B. It shall be the duty of the Attorney General and district attorney at their discretion on the request of the Board to bring an action for an injunction against any person violating the provisions of Sections 926.1 through 926.13 of this title or violating any order or determination of the Board. In any action for an injunction brought pursuant to this section, any findings of the Board after hearing or due notice shall be prima facie evidence of the facts found therein.

C. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or certification in any discharge permit form, in any notice or report required by a discharge permit, or who knowingly renders inaccurate any monitoring device or method required to be maintained by regulations and standards adopted by the Board shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) for each such violation.

D. Nothing in this act shall in any way impair or in any way affect a citizen's right to recover damages for pollution.

Laws 1972, c. 242, § 10; Laws 1981, c. 277, § 6, emerg. eff. June 26, 1981.

Waters and Water Courses §64 et seq.